

Before the  
Federal Communications Commission  
Washington, DC 20554

CC Docket No. 92-115

In the Matter of

Revision of Part 22 of the Commission's rules  
governing the Public Mobile Services

**NOTICE OF PROPOSED RULE MAKING**

Adopted: May 14, 1992 Released: June 12, 1992

Comment date: August 21, 1992

Reply comment date: September 21, 1992

By the Commission:

**INTRODUCTION**

1. In this Notice we propose to revise Part 22 of our rules governing the Public Mobile Services. These revisions, which are set forth in the attached appendices, are proposed in order to make our rules easier to understand, to eliminate outdated rules and unnecessary information collection requirements, to streamline licensing procedures and to allow licensees greater flexibility in providing service to the public.

**BACKGROUND**

2. We completed our last comprehensive review and revision of Part 22 of the rules in 1983.<sup>1</sup> More recently, the Mobile Services Division (MSD), through its own initiative, established an internal task force to study revising Part 22 of the rules. This task force met throughout 1989 and 1990 and suggested many specific rule changes. In response to the rule changes proposed by the task force, other members of the MSD staff also offered comments and suggestions. In addition, several telecommunications organizations have submitted suggestions for revisions to Part 22.<sup>2</sup>

**DISCUSSION**

3. Several factors make a revision and update of Part 22 of the rules desirable at this time. First, since the most recent revision of Part 22 in 1983, the Commission has engaged in numerous rule making proceedings that amended various sections of Part 22. A

rewrite and update of Part 22 at this time will ensure that the rules adopted in these rule making proceedings are consistent and applicable today.

4. Second, since our last rewrite, significant changes have occurred in the Public Mobile Services that make some of our rules obsolete and unnecessary. For example, in the cellular service, almost all of the 306 Metropolitan Statistical Areas (MSAs) and New England County Metropolitan Areas for the New England States (NECMAs) and most of the 428 Rural Service Areas (RSAs) have been licensed to provide service. This fact, and other rapid developments in the cellular industry have rendered many of the Commission's rules governing the acceptance, processing and selection of applications for initial cellular authorizations in the MSAs, NECMAs and RSAs obsolete. In addition, because the first cellular license granted will expire on October 1, 1993,<sup>3</sup> and many other cellular authorizations will expire shortly thereafter, new rules governing the acceptance and processing of applications from parties competing against renewal applicants have been adopted.<sup>4</sup> Part 22 should be revised and updated to better incorporate these and other new rules.

5. Third, substantial changes in technology have occurred, causing some of the technical specifications in our rules to become outdated or unnecessary. Changes in technology have also made it desirable to provide carriers with greater flexibility to deal with new and changing circumstances while, at the same time, promoting the public interest.

6. Fourth, the Metric Conversion Act of 1975 designates the metric system as the preferred system of weights and measures and encourages federal agencies to use the metric system in procurement, grants and other business activities. In converting Part 22 rules involving heights and distances from English units to metric, rounding of the converted quantities to convenient whole numbers is desirable, but sometimes causes slight changes that require public consideration in a notice and comment rule making proceeding.

7. Attached Appendix A contains a section by section description of the proposed substantive changes to Part 22 of the rules. However, in the following paragraphs, we present a brief discussion of the more significant proposals.

8. **Reorganize Part 22.** Part 22 has been reorganized so that the rules are grouped in a more logical arrangement of subparts. Lengthy rule sections in the current rules that cover a number of different and

sometimes unrelated topics have been broken up into separate sections, making it less difficult to find specific rules. Under the proposed organization, rules common to all Public Mobile Services<sup>5</sup> are consolidated under the first three subparts, while rules that apply only to specific services are grouped under subparts covering those specific services. We propose to retitle the individual radio services to more clearly indicate the types of service provided.<sup>6</sup> Currently, rules in the subpart governing paging and radiotelephone services are separated according to frequency ranges, without regard to the purposes for which the channels may be used. By contrast, in the proposed subpart, rules are organized according to types of operation, such as one-way paging operation, two-way mobile operation, and point-to-point operation. In addition, we propose to consolidate the rules governing air-ground radiotelephone services under a single subpart. Currently, the rules governing air-ground service to persons aboard general aviation aircraft are contained in the subpart governing paging and radiotelephone services, while the rules governing air-ground service to passengers on commercial airliners are in a separate subpart.

9. **Applications to be granted on a "first come, first served" basis.** We are proposing that all mutually exclusive applications in the Public Mobile Services be processed using a "first come, first served" procedure. We recently adopted rules establishing the use of this procedure for unserved area cellular applications.<sup>7</sup> Under the proposal, only mutually exclusive applications received on the same day would be entitled to be included in a random selection process. Major filings would still be listed in periodic public notices, and a 30 day period for filing petitions to deny would remain.<sup>8</sup> However, the 60 day period we currently allow for the filing of competitive applications would be eliminated. The proposed "first come, first served" procedure would eliminate the need for most of the random selection processes we now conduct, expedite the processing of applications and prevent applicants from filing applications simply to impede a competitor's applications.

10. Although our strong preference is to adopt the "first come, first served" procedure, we note that this procedure could, in some instances, limit the opportunity for carriers to file applications to expand an existing system on a specific channel. Therefore, we request comment on whether there are other alternatives to our proposal that would permit competing applications for certain circumstances, such as system expansion, while also enabling us to process applications promptly. The disadvantage of providing increased opportunity for filing mutually exclusive applications is that processing

of these applications involves the expenditure of much more staff effort and resources. This could harm the interests of all licensees in that service, not just the parties that wish to compete for a particular channel. We request that interested parties provide a cost-benefit analysis as to whether the "first-come, first-served" procedure or some alternative procedure would better serve the public interest.

11. **Conditional Grants.** We are proposing to rely on the technical exhibits provided by applicants without verifying their accuracy prior to grant. In this regard, carriers filing applications for Public Mobile Service radio station authorizations with the Commission must already certify that the statements made in the application, including all technical exhibits, are complete and correct. We propose to strengthen this certification to state that the applicant has carefully reviewed the engineering of its proposal and certifies that it complies with the Commission's technical rules for operation on an interference-free basis. We believe that implementation of this proposal could reduce the time required to process applications by as much as 50 percent. With the new certification in place, all authorizations in the Paging and Radiotelephone and the Rural Radiotelephone Services would be granted on the condition of non-interference for the entire term of the license. Once operations commence, if interference occurs because of an error or omission in the technical exhibits to the application, the Commission would retain the right to order the licensee, without affording an opportunity for a hearing, to suspend operation of the facilities at the locations causing the interference, until the interference is resolved. We request comment on this proposal. We also request comment as to whether the condition should remain in effect for a more limited term.

12. We are presently undertaking efforts to eliminate from our computer data base duplicate and erroneous records and records of expired facilities. Our intent is to make this data base as accurate as possible. These efforts should enable applicants to continue to provide reliable technical exhibits, preventing occurrences of interference due to faulty data. In addition, licensees would still be able to inspect applications on file with the Commission to determine whether the technical exhibits are faulty. In any event, we have found that, in the few instances where interference has occurred, the licensees or their representatives have usually been able to resolve the problems through meetings and negotiations.

13. **Adopt spectrum finder's procedures.** In an effort to recapture unused spectrum and to facilitate expeditious reassignment of channels to persons who will use them productively, we are proposing to adopt a concept called a "finders preference."<sup>9</sup> Under our proposal, an applicant would be able to file a "finders" application for a Public Mobile Service channel that is assigned, but is not currently being used. While such an application would now be dismissed as defective, under the proposed rules it would be kept on file pending the outcome of a staff investigation into the underlying licensee's alleged noncompliance with our construction and operation rules. If our investigation revealed that the licensee was not complying with these rules, the licensee could be subject to a forfeiture, the authorization could be canceled and we could recover and reassign the affected channels. The applicant's "finders" application would then be considered the first filed for the recovered channel.

14. **Grant a limited amnesty period.** We are announcing a limited amnesty period during which licensees who turn in authorizations for unused channels will not be subject to forfeitures for discontinuing service without notifying the Commission in accordance with Section 22.303 of our rules or for notifying the Commission of commencement of service when, in fact, such service has not commenced. The limited amnesty period will begin on the date this Notice of Proposed Rule Making is published in the Federal Register until the date that new rules adopted in this proceeding become effective. After the amnesty period, licensees violating our construction and operation rules would again be subject to forfeiture or any other appropriate enforcement action.<sup>10</sup>

15. **Replace the Carey method.** We propose to discontinue our reliance on the methods outlined in the Carey Report for evaluating proposed stations in the Public Land Mobile and Rural Radio services.<sup>11</sup> In place of these methods, we propose to use six relatively simple formulas to define the service areas and interference potential of all VHF and 450 MHz UHF stations in these services.<sup>12</sup> Use of the proposed formulas will eliminate the ambiguities inherent in the Carey method and facilitate development of simpler and more efficient personal computer and programmable hand calculator software to perform interference studies. Assignments made using the proposed formulas would be compatible with existing assignments because the formulas produce results that are very close to the Carey method. Also, we propose to convert all of the graphs and many of the tables in the rules to formulas, where it appears to be mathematically feasible. As with

the Carey curves, graphs are subject to differing but equally valid readings because of the limits of human visual acuity. Tables are not ambiguous, but they must either be lengthy or employ interpolation methods that complicate adaptation to computer programs. Formulas have the advantages of always yielding the same result for a given set of parameters, and being compact and easy to program. In those instances where it does not appear to be beneficial or mathematically feasible to convert graphs to formulas, we propose to convert them to tables instead. These proposals are not intended to affect existing systems established using the Carey method.

16. **Eliminate traffic loading studies.** Our rules currently require applicants to file traffic loading studies if they request one or more additional channels for an existing two-way station.<sup>13</sup> These studies were initially adopted for two-way channels to ensure efficient use of the paired channels.<sup>14</sup> In order to obtain additional two-way channels, our rules require a licensee to conduct channel occupancy measurements to demonstrate that existing and projected traffic on its system necessitates the assignment of additional channels. However, in view of the proliferation of competitive telecommunication services including cellular radiotelephone, and our decisions in other proceedings affecting public mobile service<sup>15</sup> channel usage, we believe that the traffic loading studies we have required are no longer a reliable indicator of efficient spectrum utilization. Additionally, these studies are burdensome for licensees to conduct and for our staff to evaluate. We are therefore proposing to eliminate traffic loading study requirements. To prevent warehousing of spectrum, we are proposing to use, instead of the traffic loading studies, the procedures that we have been using for several years to govern additional channel requests for one-way paging operations. Under the proposed rules, applicants may apply for no more than two channels at a time and must be providing service on those channels before applying for additional channels.<sup>16</sup> We believe that this method would allow licensees that need additional channels the opportunity to obtain them, while continuing to provide an adequate safeguard against warehousing.

17. **Eliminate notification requirements for minor changes and additional transmitters within contours of authorized stations.** Our rules currently allow licenses to make minor changes to facilities and to construct and operate additional transmitters without prior Commission approval, provided that they notify the Commission by filing an FCC Form 489.<sup>17</sup> However, these notifications are routine and seldom involve

concerns that a licensee is expanding into new territory or exceeding its current contours. We propose to modify our rules to allow licensees to make such changes to their facilities without seeking prior Commission approval or notifying the Commission of such changes. Licensees would be required to maintain accurate up-to-date records of facilities added or modified that could be provided to the Commission upon request. We emphasize, however, that all licensee construction will continue to be subject to FAA and FCC antenna structure clearance requirements and rules governing construction that may have a significant environmental effect.<sup>18</sup> This proposal is intended to conserve both Commission and industry resources. We request comment on the advantages and disadvantages of this proposal.

**18. Revise application and notification forms.** Upon implementation of rule changes proposed herein, we would require the use of redesigned FCC Forms 401, 489, and 490.<sup>19</sup> Currently, we generally require FCC Form 401 for major filings and FCC Form 489 for minor filings.<sup>20</sup> Under the proposed rules, we would require Form 401 for major and minor applications and amendments (filings that result in a Commission action to grant, dismiss or deny) and Form 489 for notifications (filings that do not require a Commission action). To prepare for future electronic filing and filings on magnetic media, and to facilitate automated entry of station technical data into a relational computer data base, we have restructured FCC Form 401 into a modular format. To accommodate the modular format, some of the data items on the current forms must be relocated. Other changes include eliminating unnecessary or duplicative items.

**19. Termination of Authorizations.** There appears to be some confusion among licensees as to when a Public Mobile Services authorization terminates for failure to commence service in the time period required by the rules. The proposed rules would provide that authorizations automatically expire without further action by the Commission. Furthermore, the 30-day reinstatement period would be eliminated. Requests for extensions of the construction period filed prior to expiration would be granted only for causes outside of the licensee's control. These provisions would strengthen existing Commission policies designed to promote prompt service to the public and to deter spectrum warehousing.

**20.** This tough policy, however, has been criticized by some licensees as unnecessarily harsh and inflexible. Some argue that the policy fails to take into

account business necessities, e.g., when a paging licensee must build out a wide-area system and cannot, for practical reasons, commence operations at all sites before the expiration of the construction period. We request comment, therefore, on alternative standards that could be nondiscriminatorily administered, yet prevent abuses, such as warehousing.

**21.** We welcome comment on any and all of the proposed revisions to Part 22. We also invite suggestions for any other proposals or refinements to the proposals that we have made in this proceeding.

## ADMINISTRATIVE MATTERS

### Ex Parte Rules -- Non-Restricted Proceeding

**22.** This is a non-restricted notice and comment rule making proceeding. Ex parte presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 CFR 1.1202, 1.1203 and 1.1206(a).

### Comment Information

**23.** Pursuant to applicable procedures set forth in Section 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before August 21, 1992 and reply comments on or before September 21, 1992. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554.

### Initial Regulatory Flexibility Analysis

**24. Reason for action and objective.** The Commission is proposing to revise Title 47, Part 22 of the Code of Federal Regulations to eliminate unnecessary information collection requirements and, wherever possible, provide greater flexibility to carriers while at

the same time promoting the public interest. The objective of this proposal is to provide effective and adaptive regulation for communications.

25. **Legal Basis.** Authority for this notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, 47 U.S.C. 154(i) and 303(r).

26. **Reporting, Recordkeeping and Other Compliance Requirements.** The proposed rules would retain most of the existing reporting, recordkeeping and other compliance requirements, without significant change. In some instances, a current filing requirement would be replaced by a less burdensome filing or recordkeeping requirement. A few new requirements are proposed. For example, one of the proposed new rules would require that applicants file agreements and an affidavit when payment is made in exchange for refraining from filing a petition to deny. For another example, the proposal concerning finder's application would require applicants to file additional information not currently required in order to obtain a benefit not currently available. Overall, this comprehensive rewrite would result in a net reduction in reporting, recordkeeping and other compliance requirements.

27. **Federal rules that overlap, duplicate or conflict with these rules.** None.

28. **Description, potential impact and number of small entities affected.** There are approximately 8,600 licensees subject to the rules in Part 22. A substantial portion of these are small entities. There are also a number of small entities whose business is consulting or providing other services in connection with Part 22. The proposed rewrite would not significantly impact these small entities.

29. **Significant alternatives minimizing impact on small entities and consistent with stated objectives.** The proposals contained in this Notice are meant to simplify and ease the regulatory burden on all Public Mobile Services applicants and licensees consistent with the Commission's established public interest objectives.

30. **Service.** The Chief Counsel for Advocacy of the Small Business Administration will be served with a copy of this Notice of Proposed Rule Making in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a).

## ORDERING CLAUSE

31. Accordingly, IT IS ORDERED That, pursuant to Section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), this Notice of Proposed Rule Making IS ISSUED. IT IS FURTHER ORDERED That the Secretary shall cause a copy of this Notice to be sent to the Chief Counsel for advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

*Donna R. Searcy*  
Donna R. Searcy  
Secretary *WRC*

## FOOTNOTES

<sup>1</sup>See Notice of Proposed Rule Making in CC Docket No. 80-57, 47 FR 43842 (October 4, 1982) and the subsequent Report and Order, 95 FCC 2d 769 (1983).

<sup>2</sup>Suggestions were submitted by Telocator; the Cellular Telecommunications Industry Association (CTIA), International Mobile Machine Corporation (IMM), Bell Atlantic Mobile Systems (Bell Atlantic) and the Federal Communications Bar Association (FCBA) Land Mobile Practice Committee.

<sup>3</sup>Cellular radio licenses are granted for a ten year term. The first license, issued to a wireline operator in the Chicago, Illinois MSA, will expire on October 1, 1993. Between 1993 and 1996, approximately 259 licenses will expire.

<sup>4</sup>See Amendment of Part 22 of the Commission's Rules Relating to License Renewals in the Domestic Public Cellular Radio Telecommunications Service, 7 FCC Rcd 719 (1992), pet. recon. pending.

<sup>5</sup>As currently defined, these services are the Public Land Mobile Service, the Rural Radio Service, the 800 MHz Air-ground Radiotelephone Service, the Offshore Radio Telecommunications Service and the Domestic Public Cellular Radio Telecommunications Service.

<sup>6</sup>The Public Land Mobile Service would become the "Paging and Radiotelephone Service." The new name better reflects the principal types of service provided. The Domestic Public Cellular Radio Telecommunications Service would be shortened to the "Cellular Radiotelephone Service." The 800 MHz Air-ground Radiotelephone Service, after consolidation with the 450 MHz air-ground service, would be retitled the "Air-ground Radiotelephone Service." The names of the other services, Rural Radio and Offshore Radio Telecommunications, would also be slightly changed in order use terminology consistently.

<sup>7</sup>6 FCC Rcd 6185 (1991).

<sup>8</sup>Section 309(b) of the Communications Act of 1934, as amended, (47 U.S.C. 309(b) requires public notice and a thirty day period before the Commission may grant certain applications.

<sup>9</sup>This concept was initially presented to the Commission in 1988 and 1989 by the Special Industrial Radio Service Association, Inc. (SIRSA) and the National Association of Business and Educational Radio, Inc. (NABER). See Notice, 5 FCC Rcd 6401 (1990). In addition, the Commission recently implemented a "finder's preference" program in Amendment of Parts 1 and 90 of the Commission's Rules Concerning the Construction, Licensing, and Operation of Private Land Mobile Stations, 6 FCC Rcd 7297 (1991).

<sup>10</sup>See generally Standards for Assessing Forfeitures, 6 FCC Rcd 4695 (1991), recon. denied, Mimeo No. 92-212, adopted May 14, 1992.

<sup>11</sup>The Carey Report is FCC Report No. R-6406, "Technical Factors Affecting the Assignment of Facilities in the Domestic Public Land Mobile Service" by Roger B. Carey. The Carey report outlines procedures comprising manual calculations and the visual reading of detailed curves on graph paper. However, in day-to-day application processing, the Commission staff actually uses a lengthy, complex Fortran computer program on its mainframe computer to perform routine interference studies.

<sup>12</sup>See proposed sections 22.537 and 22.567.

<sup>13</sup>See 47 CFR 22.16 and 22.516(a)(2).

<sup>14</sup>See Procedures for Domestic Public Land Mobile Radio Service, 53 RR 2d 191, 193 (1983).

<sup>15</sup>See, for example, Flexible Allocations of Frequencies in the Domestic Public Land Mobile Service for Paging and Other Services, 4 FCC Rcd 1576 (1989), in which the Commission decided to allow market forces to determine which common carrier services are offered on two-way public mobile channels.

<sup>16</sup>See proposed section 22.569.

<sup>17</sup>See current Sections 22.9 and 22.117(b). Commission approval is required for facilities involving international coordination.

<sup>18</sup>See 47 CFR 1.1301 et seq.

<sup>19</sup>Examples of the redesigned forms are attached to the Commission release of this Notice of Proposed Rule Making.

<sup>20</sup>The second portion of FCC Form 401 (Schedule B) is required to be used as an attachment to some types of FCC Form 489 filings.

## APPENDIX A

## PROPOSED RULES DISCUSSION

This appendix discusses the major rule revisions. Rules that are changed only in format or style, rules that are only reworded or retitled, rules with only minor or non-substantive changes, and rules we propose to delete because they are unnecessary are not discussed in this appendix. Appendix B sets forth proposed Part 22 essentially in its entirety. A table for cross-referencing the current rules and the proposed rules appears in Appendix C.

## § 22.99 Definitions.

The definitions for Part 22 are updated. Some definitions are removed and others added. More appropriate titles for the various public mobile services are proposed. For example, the "Domestic Public Cellular Radio Telecommunications Service" is retitled the "Cellular Radiotelephone Service", and the "Public Land Mobile Service" (PLMS) is retitled the "Paging and Radiotelephone Service". The terms "frequency" and "channel" are defined in more technically correct terms. These two terms have often been used interchangeably over the years to refer to assignments of the electromagnetic spectrum. However, they are not the same, and as advances in technology have made it feasible to transmit more than one emission in the bandwidth normally assigned for one emission, we believe it is timely to refer to the bandwidth we normally assign for one emission as a "channel".

## § 22.101 Station files.

This proposed rule would codify the long-standing policy that station files at the Commission constitute the official record for each station. This proposed rule is intended to inform applicants and licensees that the Commission's unofficial records or data bases are not official records and that reliance on these secondary sources does not establish or deprive parties of their rights. See Northeastern Pennsylvania, Inc., 5 FCC Rcd 7414 (Com. Car. Bur., released December 11, 1990).

## § 22.105 Written applications, standard forms, microfiche, magnetic disks.

We propose to revise our microfiche rules to require that all applications on standard forms (including all exhibits and attachments), regardless of their length, and any filings pertaining to a current or pending application or an existing authorization must be filed in

microfiche form. Except in the case of emergency filings, all filings longer than three pages must be submitted in microfiche form. We propose these revisions to our microfiche rules for several reasons. First, we note that we propose to redesign FCC Form 401 to less than five pages. Despite the proposed changes to the FCC forms, which would make some filings shorter than they currently are, we must continue to require that applicants file their applications in microfiche form because of our file storage space constraints. Secondly, we propose these changes because of constraints on the Commission's microfiche resources. We propose also to modify our rules to require that all microfiche appear on a black background. Furthermore, we propose a rule that permits applicants to submit the technical and administrative data contained in their applications on standard 3½ inch magnetic disks, formatted in MS-DOS 2.0 or higher. We seek comment on the proposed format, the type of file to be used, and the data field delimiter. Finally, we intend that technical information submitted by licensees on magnetic disks be sufficient to enable the Commission to automatically generate notifications to the International Frequency Registration Board (IFRB). We emphasize, however, that any rules which the Commission adopts with respect to filings on magnetic disks would not become effective until the Commission can implement fully this process.

## § 22.120 Application processing; initial procedures.

This proposed section clarifies and updates § 22.27, and specifies the initial procedures the Mobile Services Division (MSD) follows when processing applications for authority to operate a PMS station.

## § 22.121 Repetitious, inconsistent or conflicting applications.

We are proposing to revise current rule § 22.21 to provide that where an authorization is automatically terminated for failure to commence service, the Commission will not consider a later filed application by the same party for authorization to operate a station on the same channel (or in the case of 931 MHz paging station, in the same frequency range) in the same geographical area until one year after the date the authorization is terminated. This proposal will encourage licensees to construct facilities for which they have received an authorization and will thus discourage warehousing.

#### § 22.123 Classification of filings as major or minor.

We propose to clarify current § 22.23 concerning the classification of filings as major or minor. This classification is pursuant to Section 309 of the Communications Act of 1934, as amended, 47 U.S.C. 309. The Commission cannot grant major filings until 30 days after public notice of such filings is given. Currently, the rules provide only guidelines for classifying amendments. The proposed rule goes beyond this by setting forth the rationale for classification of all filings. With respect to filings in the Public Land Mobile and Rural Radio Services, we seek comment on whether there are circumstances under which a change in the location of a fixed transmitter or other changes to an existing fixed transmitter could properly be considered minor rather than major.

#### § 22.124 Notification processing.

This proposed rule section outlines MSD's procedures for processing notifications. The number of notifications MSD receives has grown steadily and accounts for a significant portion of the processing work load.

#### § 22.125 Applications for special temporary authorizations.

This proposed rule section consolidates and clarifies all rules governing the filing and processing of requests for special temporary authorizations.

#### § 22.128 Dismissal of applications.

This proposed rule section consolidates the provisions of current §§ 22.20 and 22.28 pertaining to dismissal of applications.

#### § 22.129 Agreements to dismiss applications, amendments or petitions to deny.

We propose to add a new rule concerning agreements to amend or dismiss applications or pleadings. The proposed rules are designed to prevent speculation and are similar to those adopted recently in the broadcast renewal process. See Formulation of Policies and Rules Relating to Broadcast Renewal Applicants, 4 FCC Rcd 4780 (1989), recon. 5 FCC Rcd 3911 (1990). We believe that the policy of permitting payments for settlements of mutually exclusive applications proposals may encourage the filing of non-bona fide applications. These non-bona fide applications, in turn, may persuade legitimate applicants to pay them off to avoid

protracted litigation, thus resulting in needless expenses to legitimate applicants. This, in turn, wastes Commission resources and delays initiation of service to the public. This proposed rule would require that a party that has filed an application for authorization to operate a PMS facility that is mutually exclusive with one or more other applications and that enters into a written agreement to withdraw its application must obtain the approval of the Commission. This rule would also limit the consideration that an applicant can receive for agreeing to withdraw an application to the legitimate and prudent expenses of the withdrawing applicant. See Amendment of Section Regarding FCC Rcd 85 (1990), recon., 6 FCC Rcd 2901 (1991). See Amendment of Part 22 of the Commission's Rules Relating to License Renewals Cellular Radio Telecommunications Service, 7 FCC Rcd 719 (1992).

We are also proposing to amend the present rule to address dismissal of petitions to deny. Our experience has shown that parties may file petitions to deny just to extract money from an applicant or to delay the applicant and thus force a settlement. Non-legitimate petitions also burden applicants, waste Commission resources and do not serve the public interest. Accordingly, we propose to limit settlement payments that can be made in exchange for withdrawing petitions to deny filed in initial licensing, modification and assignment proceedings. We propose that when a petition to deny is withdrawn in exchange for money, the payment to the petitioner be limited to the legitimate and prudent expenses in prosecuting the petition. See Amendment of Section and Processes, 5 FCC Rcd 3902 (1990). See e.g., Formulation of Policies and Rules Relating to Broadcast Renewal Participants of the Renewal Process, 4 FCC Rcd 4780 (1989), recon. 5 FCC Rcd 3911 (1990). We also note that in Rules for Unserved Areas (Further Notice of Proposed Rule Making), 6 FCC Rcd 6158 (1991), we have proposed that rules similar to proposed §§ 22.129 and 22.130 be adopted with respect to all cellular applications.

#### § 22.133 Random selection process.

This revision of present § 22.33 eliminates provisions that delineate the lottery procedures for cellular applications in the top-120 markets, and MSA/RSA markets beyond the top-120. Because initial lotteries in these markets have already occurred and cellular service has been provided in most of these markets, these rules are no longer necessary. This proposed rule would not alter the current random selection procedures governing mutually exclusive applications for initial authorizations, as needed, in the cellular service.



In addition, we propose to eliminate paragraph (c) of current § 22.33, which allows mutually exclusive applicants in the Public Land Mobile Service to request a comparative hearing in lieu of a random selection process under certain circumstances. In Lotteries (reconsideration), 49 FR 49466 (1984), 57 RR 2d 427 (1984), (Lotteries Reconsideration), the Commission provided that Public Land Mobile Service (PLMS) licensees applying to expand an existing system on the same channel, whose applications are mutually exclusive with other applications, could request that a comparative hearing be used, in lieu of a random selection process, to decide which application would be granted. The purpose for this provision was to allow the expansion applicant an opportunity to try to demonstrate that expansion of its existing system, which would have to be accomplished on the channel already authorized, might better serve the public than the authorization of a new station, which could be done on any available channel. To date, however, no applicant has been able to satisfactorily demonstrate this, and thus, no such hearings have been held. Our proposal to process applications on a "first come - first served" basis, if adopted, would make the deliberate filing of mutually exclusive applications unlikely, and consequently make this provision unnecessary. For these reasons, it is proposed that the current rule which allows mutually exclusive applicants to request a comparative hearing under certain circumstances be eliminated. We are also proposing to eliminate current § 22.35, which allows mutually exclusive applicants to request expedited hearing procedures. To our knowledge, these hearing procedures have not been utilized recently. We seek comment on the proposed elimination of these rules. In particular, we request information as to whether any circumstances exist which would warrant that these procedures be maintained.

#### § 22.135 Settlement conference.

We propose to adopt a rule directing parties or their attorneys to participate in settlement conferences regarding application proceedings. In particular, the proposed rule emphasizes that where the Commission determines that a settlement conference should be convened: 1) the parties or their attorneys are obligated to participate, in person or by telephone conference call; and 2) failure to participate in such a conference will be deemed a failure to prosecute, rendering that party's application or petition defective and subject to dismissal. We propose this rule to expedite the resolution of petitioned proceedings.

#### § 22.142 Commencement of service; notification

requirement.

This proposed rule, currently in § 22.43, has been revised to require that stations must be constructed and be providing service to the public by the end of the construction period. If a licensee fails to provide service to the public by the date of required commencement of service, the authorization is automatically terminated without any further notice from the Commission. We ask for comment on whether automatic expiration of a construction authorization is consistent with Section 319(b) of the Act. See Edmond A. Baker v. FCC, 834 F.2d 181, 185 (D.C. Cir. 1987); MG-TV Broadcasting Co. v. FCC, 408 F.2d 1257 (D.C. Cir. 1968); Mass Communicators, Inc. v. FCC, 266 F.2d 681 (D.C. Cir.), cert. denied, 361 U.S. 828 (1959). This proposed rule policy is intended to encourage licensees to construct and provide service to the public as expeditiously as possible. The proposed rule has also been revised to clarify the types of circumstances that warrant extensions of time to complete construction.

#### § 22.143 Construction prior to grant of application.

This proposed rule consolidates all current rules and policies regarding the construction of facilities prior to grant of an authorization to operate same (informally called "pre-construction rules").

#### § 22.144 Termination of authorization.

This proposed rule, presently § 22.44, lists the five ways, other than revocation, that a Public Mobile Services authorization can be terminated.

#### § 22.145 Renewal application procedures.

This proposed rule states that applications for renewals of authorization must be filed by the licensee prior to, but no more than 30 days before the expiration date of the license. The current rule requires applicants to file their renewal no sooner than 60 days and no later than 30 days prior to the expiration date of the authorization. The proposed rule would eliminate the "gap", a period of time after the 30 day filing period during which it is too late to file for renewal, but the authorization has not expired. In addition, we propose to eliminate the current provision that allows licensees who failed to timely file their renewal applications due to confusion about the aforementioned gap to file reinstatement applications after the authorization expires. Because the gap would be eliminated, reinstatements should no longer be needed.

#### § 22.147 Authorization conditions.

We propose to adopt a rule providing that authorizations in the Paging and Radiotelephone Service and the Rural Radiotelephone Service are subject to the condition that if interference occurs upon commencement of operation because of an omission or error in the required technical exhibits of the application, the Commission may order the licensee, without a hearing, to suspend operations at the location causing the interference until the interference is resolved. This proposal strikes a balance between our intent to ensure interference-free operation and our expectation that applicants be accountable for the accuracy of their technical exhibits, which should demonstrate compliance with our rules. Cf. P & R Temmer v. FCC, 743 F.2d 918 (D.C. Cir. 1984).

#### § 22.150 Standard pre-filing technical coordination procedure.

This proposed rule section would consolidate two repetitive sections (current §§ 22.100(d)(1)-(d)(11) and 22.501(m)(4)). This procedure currently applies (and as proposed would apply) only to two types of authorizations: Microwave fixed stations (see proposed § 22.601) and Hawaii inter-island fixed service on 488-494 MHz (see proposed § 22.603).

#### § 22.157 Distance computation.

We propose to add a new rule that sets forth the procedure to be used for calculating the distance between two locations. The method set forth is accurate for distances up to 475 kilometers (295 miles). Currently, Part 22 instructs PMS licensees to use the distance computation method given the broadcast TV rules (Part 73). However, the TV rules, in turn, refer to the commercial broadcast FM rules. The Commission has revised the FM broadcast method twice in the last ten years for reasons significant principally to FM broadcast stations. We believe that the distance computation rule for Part 22 licensees should not change as a result of Mass Media concerns, and furthermore, PMS licensees should not need to obtain a copy of Part 73 in order to locate a rule that applies to them. For these reasons, we propose this new rule section.

#### § 22.159 Computation of average terrain elevation.

We propose to revise current § 22.115(c) to specify that average terrain elevation determinations be performed by computer, except in cases of dispute. Under

the current rule, average terrain determinations are to be performed manually, using profile graphs derived from topographical maps, except that such determinations may also be performed by computer. Since the most efficient method of computing average terrain elevation is by computer, most applicants take advantage of the current "exception", and practically none use the manual method required by the rule. The proposed rule revision reflects this reality. Nevertheless, we seek comment on whether applicants should be required to continue to perform such determinations manually.

#### § 22.163 Minor modifications to existing stations.

Our rules currently allow licensees to make minor modifications (informally called "permissive changes") to existing facilities under certain circumstances, provided that the Commission is notified of the modifications (FCC Form 489). We are proposing to eliminate the requirement that licensees notify the Commission of such modifications. Of course, there would be no record of the modifications in the station files or computer data bases; consequently, these transmitters might not be protected from interference. The purpose of this proposal is to reduce the number of notifications filed and thus conserve Commission and industry resources. We seek comments on the costs and benefits of implementing this proposal.

#### § 22.165 Additional transmitters for existing systems.

Our rules currently allow licensees to construct and operate additional transmitters if, in the case of cellular systems, the service area boundaries of the additional transmitters are located within the licensee's market during the five year fill-in period or within the CGSA or, in the case of paging systems, if the service and interfering contours are located within existing such contours, provided that the Commission is notified of the additional transmitters (FCC Form 489). We are proposing to eliminate the requirement that licensees notify the Commission of such additional transmitters. Of course, there would be no record of the additional transmitters in the station files or computer data bases; consequently, these transmitters would not be protected from interference. The purpose of this proposal is to reduce the number of notifications filed and thus conserve Commission and industry resources. We seek comments on the costs and benefits of implementing this proposal.

§ 22.167 Applications for assigned but unused channels.

This proposed section sets forth procedures for implementing a "finder's preference" concept whereby applicants may apply for assigned but unused Public Mobile Service channels prior to the deletion of their assignment from Commission station files. PMS licensees are required to comply with certain Commission requirements to maintain the validity of their authorizations. If a licensee fails to comply with rules requiring the provision of service to the public, the authorization terminates and the channels involved can then be reassigned to another applicant. To expedite reassignment of channels that are not being utilized, we propose to allow an applicant to file a "finders" application that does not meet the technical protection requirements with respect to a currently assigned but allegedly unused channel, provided that they supply information revealing that the specifically identified facility has failed to commence service or has discontinued service, in violation of proposed § 22.144(b) and (c) of our rules. We propose that a finder's application include (1) the name and address of the licensee; (2) the licensee's call sign and the location of the licensed facility; and (3) a statement providing details concerning the alleged nonuse of the facility. The Commission would then place such "finders" applications on Public Notice, identifying them as such and listing them as tentatively acceptable for filing. Under the proposed rule, the staff may also conduct an investigation to verify that the authorization for the identified facility has, in fact, terminated.

§ 22.305 Operator and maintenance requirements.

This proposed rule, presently § 22.205, has been revised to no longer require that licensees' maintenance agreements with third parties be in writing. This requirement is unnecessary because licensees, on their own accord, should ensure that such contracts are legally binding. Also, such contracts do not under any circumstances relieve the licensee of its responsibility for lawful station operation.

§ 22.313 Station identification.

This proposed rule is a revision of current § 22.213. We propose a new paragraph that allows paging and radiotelephone stations to be identified by the call sign of another station of the same licensee in the same system. Currently we receive requests to "consolidate call signs" of systems that were originally authorized in separate parts and bear different call signs. Licensees

wish to use the same control center identifier for the entire system to conserve air time. Sometimes it is extremely time consuming or impossible for the MSD staff to merge large stations under one call sign. Consequently, we have from time to time waived the station identification requirement to allow licensees to use a different call sign than the one assigned, in order to satisfy the consolidation request without merging the files. The proposed rule would eliminate the need for these routine waivers.

§ 22.317 Discontinuance of station operation.

This proposed rule, presently § 22.303, has been revised to make clear that a station that has not provided service to the public for 90 continuous days is considered to have been permanently discontinued.

§ 22.321 Equal employment opportunities.

We are committed to the principle of equal employment opportunity in the communications common carrier industry. Accordingly, the proposed rule maintains (1) the requirement that Public Mobile Services licensees afford equal opportunity in employment and (2) the prohibition on discrimination against personnel on the basis of sex, race, color, religion or national origin. We propose to reorganize some of the paragraphs in the existing rule for clarity. In particular, the current wording seems to imply that the EEO program statement filing requirement applies only to stations in existence prior to December 17, 1970. The proposed rule is reworded to make it clear that the filing of EEO statements is an on-going requirement, and to change the annual date by which updates are to be filed from April 1 to May 31, the same date that annual employment and complaint reports are due. This will serve to consolidate all CCB EEO filings on this date. Additionally, a NOTE provides a catch-up date for carriers who may have failed to file EEO program statements because of confusion due to the wording of the current rule.

§ 22.325 Control points.

We propose to combine the control point requirements for all of the Public Mobile Services in this rule. Furthermore, we propose to eliminate the provisions in present § 22.909 requiring cellular operators to obtain Commission approval prior to moving the location of the control point beyond the boundary of the CGSA. Allowing cellular licensees the flexibility to combine their control points without seeking prior Commission approval reflects the reality of technological changes

that result in greater operational efficiency.

#### § 22.355 Frequency tolerance.

We propose to specify transmitter frequency tolerances in terms of parts per million (ppm) rather than per cent (%). (Per cent is parts per hundred). This reflects the fact that modern solid state transmitters are considerably more stable than transmitters used ten to twenty years ago.

#### § 22.359 Emission masks.

We propose to specify resolution bandwidths for instruments used to measure compliance with the emission masks specified. Callers frequently ask the MSD staff for this information. The bandwidths are determined by the Commission's laboratory.

#### § 22.371 Disturbance of AM broadcast station antenna patterns.

This proposed rule codifies existing policy developed in response to the proliferation of cellular towers over the last ten years. The rule sets forth only the responsibility of Public Mobile Services licensees in avoiding interference in the AM broadcast service. Responsibilities of AM licensees (to measure power by the direct or indirect method, for example) is contained in Part 73 of the Commission's rules.

#### § 22.377 Type acceptance of transmitters.

This rule, present § 22.120, is revised to clarify that transmitters operating under a developmental authorization do not have to be type accepted.

#### § 22.401 Description and purpose of developmental authorizations.

This rule, presently in §§ 22.400 and 22.401, has been revised to state that developmental authorizations may be issued to determine whether a station can operate without causing interference to existing stations.

#### § 22.411 through § 22.417

These rules combine the provisions and requirements for routine developmental authorizations that are currently scattered throughout Part 22, and categorize them in a few sections by type of operation, radio service and frequency range.

#### § 22.507 Number of transmitters per station.

This proposed rule would require a separate transmitter for every assigned channel at each location. This is intended to eliminate a practice among some licensees whereby one multi-frequency transmitter is installed at a site where two or more channels are authorized. Although the transmitter may transmit on any one of the authorized channels, it cannot transmit on more than one of them at the same time. We believe that such practice can result in inefficient use of the spectrum. Requiring at least one transmitter for each authorized channel at each location would discourage warehousing. However, we request comment as to whether there is a less stringent requirement that would also meet this objective.

We also propose to require that all transmitters within a station must be operationally related in order to be authorized together as a station. Unrelated transmitters that are widely separated geographically would not be authorized together as a station. This proposal is intended to codify our current policy, which promotes administrative efficiency by ensuring that station files comprise data on operationally related transmitters. It also helps to prevent particular station files containing the records of stations owned by large or nationwide companies from growing so large as to be unwieldy.

#### § 22.509 Procedure for mutually exclusive applications.

This proposed rule would replace current §§ 22.33 and 22.35, insofar as these rules establish procedures to process mutually exclusive applications in the Public Land Mobile Service. We propose that all mutually exclusive Public Land Mobile Service applications be processed on a "first-come, first served" basis.

#### § 22.513 Channel availability.

In general, the Commission requires applicants to request specific channels which they believe to be available when the application is filed. However, for the 931 MHz paging and 470-512 MHz point to multipoint channels, applicants are not required to request a specific channel because the Commission selects and assigns a channel when granting such applications. Often, a channel in these frequency ranges will become available after an application is filed but before it is acted upon or included in a random selection process. We are proposing this rule to provide that, when processing applications for which the Commission selects the channel, any channel in the appropriate frequency range that becomes available before an

application is (1) acted upon (if no random selection process is necessary) or (2) included in a random selection process (if held), may be assigned, regardless of whether it was available when the application was filed.

#### § 22.535 Effective radiated power limits.

We propose to consolidate all transmitting power limits applicable to stations in each service or type of operation into a single section in the rules governing that service or type of operation. See also proposed §§ 22.565, 22.593, 22.627, 22.659, 22.809, 22.867, 22.913 and 22.1013. Currently, there is no maximum power limit in the rules governing the Rural Radio Service, including BETRS, other than for meteor burst systems. We seek comment as to what these limits should be. Although we have generally specified power limits in watts, we invite comment as to whether we should specify them in dBW instead, or in the alternative, whether we should specify a fixed percentage (such as 5%) for the accuracy with which transmitting power must be measured or maintained.

#### § 22.537 Technical channel assignment criteria; one-way paging.

This rule would replace §§ 22.15(b)(2)(i) and 22.504, which outline procedures for determining harmful interference between co-channel stations. We propose to adopt a new method employing formulas (and in the case of 931 MHz paging, tables) for determining service areas and interfering contours. The proposed formulas closely track the contours calculated using the Carey procedures. As such, they serve as an administrative tool designed to facilitate application processing and are not meant as the most accurate theoretical propagation model.

#### § 22.567 Technical channel assignment criteria.

This proposed rule, which would govern the technical assignment criteria for one-way or two-way mobile operations, is similar to proposed § 22.537 and would no longer require the use of the Carey method. Instead, applicants would use the formulas provided in this rule to define service areas and interference potential.

In § 22.567(b), we need to establish a method to protect fixed receivers on the mobile channels from base or fixed transmitters using those channels. In Flexible Allocation of Frequencies in the Public Mobile Services (Report and Order), 4 FCC Rcd 1576 (1989),

we indicated that applicants for base and fixed transmitters to operate on the mobile channel should demonstrate non-interference with fixed receivers in accordance with a technical exhibit in that proceeding. Furthermore, we stated that such authorizations would be granted on a developmental basis. Since that time, the industry response has been that this demonstration severely limits the use of the mobile channel by base and fixed stations. We believe, however, that any other criteria designed to provide protection in theory to existing and future fixed receivers would likely be as stringent. Nevertheless, we solicit comment as to a new protection criteria that will enable licensees to provide an appropriate level of protection to fixed receivers while, at the same time, making more effective use of the mobile channels. The text of such criteria would be inserted at §22.567(b), which has been left blank in the Appendix. In the alternative, to allow greater use of the mobile channels for base and fixed use, we propose to allow the use of mobile channels for fixed and base operations subject to the condition that such use does not interfere with existing systems only. If after grant, interference occurs, the Commission would be able to order the licensee to suspend operation of particular base or fixed transmitters on the mobile frequency until such interference is resolved. See proposed § 22.147(b). We seek comment on this proposal.

#### § 22.569 Additional mobile channel policies.

This proposed rule, which would govern the processing of applications for one-way or two-way mobile operations, would replace the present traffic loading requirements found in § 22.16 and 22.516. Under this proposed rule, the general policy would be to assign no more than two channels in an area to a carrier in an application cycle. Thus, similar to the rule for paging operations, a carrier would apply for no more than two channels, receive the authorization, construct the stations and notify the Commission of commencement of operation before applying for additional channels in the area. The proposed "two channels at a time" policy would replace the current requirement that applicants submit traffic loading studies.

#### § 22.575 Use of mobile channel for control transmitter.

This is a revision of current § 22.518. The current rule was established to allow licensees to install and operate a moderate power control station with a relatively low antenna (essentially a "parked mobile station") to control the base station of a two-way mobile telephone system. Here, controlling the base station

meant turning it on and off, turning on tower lights, etc. and did not mean carrying subscriber traffic. The principal concern of the current rule is that subscribers not be able to override this control function. No interference was expected because of the relatively low power and antenna height employed, and the usual use of a directional antenna as well, limiting radiation in unwanted directions. Further, because the use of the control station could interrupt mobile traffic, the licensee in its own interest would ensure that control transmissions would be brief and infrequent.

Because most former two-way systems in the Public Land Mobile Service are now used for paging, several licensees have asked the MSD staff for interpretations of current § 22.518 as it may apply to multi-site paging systems. These licensees generally seek to use current § 22.518 to "get around" the stringent interference prevention requirement established in Flexible Allocation of Frequencies in the Public Mobile Services (Report and Order) 4 FCC Rcd 1576 (1989) for base and fixed usage of the mobile channel (see discussion of § 22.567 supra). However, controlling a paging system now means installing a high omnidirectional antenna driven by high power transmitter, and transmitting subscriber traffic to multiple base station sites continuously around the clock. Obviously there is a much greater potential for interference from this type of operation to fixed receivers on the mobile channel. We request comment on the continued need for this rule, on what role it may play in the current environment, and whether additional technical parameters or duty cycle limits should be imposed to provide protection for fixed receivers.

#### § 22.577 Grandfathered dispatch service.

This proposed rule, presently § 22.519, has been revised to state more clearly that only carriers who have continuously provided service since they received authorization to do so (prior to January 1, 1982) may continue to provide such service. We seek to determine whether any carriers are in fact providing dispatch service. If no carriers are providing such service pursuant to this rule, we propose to eliminate the rule.

#### §§ 22.625 and 22.627

These proposed rule sections contain technical requirements designed to prevent interference to UHF television from point-to-multipoint stations. The existing graphs in the rules were converted to tables, and provisions related to mobile transmitters were removed, as there are no mobile transmitters in point-to-multipoint

operation.

#### §§ 22.657 and 22.659

These proposed rule sections contain technical requirements designed to prevent interference to UHF television from trunked mobile stations. The existing graphs in the rules were converted to tables, and provisions related to cities where these channels are no longer available were removed.

#### § 22.715 Technical channel assignment criteria for rural radiotelephone.

Because Rural Radio utilizes the same channels as two-way mobile operations in the Public Land Mobile service, it is necessary that some assignment criteria be applied. We also propose to apply the additional channel policies proposed in § 22.569 to Rural Radio Service. We seek comment on whether these policies, as applied to Rural Radio Service, would be in the public interest.

#### §§ 22.751, et. seq.

At this time the Commission does not have any technical rules for assignment of channels to BETRS in the Rural Radio Service. Because BETRS use the same channels as stations in the Public Land Mobile service, we believe that some technical rules are necessary to protect BETRS and paging and radiotelephone stations from mutual interference. In recent years, channel assignments for stations in the Rural Radio Service have been made using the criteria for the Public Land Mobile Service. We request comments as to what additional rules are necessary to govern channel assignments for BETRS, and what technical criteria should be used.

#### § 22.757 Channels for basic exchange telephone radio systems.

This rule lists channel groups in the 816-865 MHz for BETRS. However, it has come to our attention that there are few, if any, locations available for BETRS under the distance limitations needed to protect private radio systems. No applications have been filed for these channels. We seek comment as to whether viable locations are available for BETRS use of these channels under the rules and whether any demand for BETRS exists in these locations. If no locations are available or no demand exists for BETRS on these channels, we propose to remove them from the BETRS rules and request comment on possible other Public

Mobile Services utilizations for these channels.

§ 22.813 Technical assignment criteria.

This proposed rule, which would establish technical assignment criteria for channels used to provide 450 MHz air-ground service, would replace the allotment table in § 22.521(b) governing the locations and channels of ground stations. Under the current rules, applicants seeking to locate a ground station anywhere except for the designated locations in the table are required to petition for a change in the table (requiring a rule making proceeding). The proposed rule seeks to simplify and streamline the procedure for obtaining authorization for new or different locations for service. The proposed rule would establish distance separation criteria for co-channel ground stations and requirements limiting to six the number of channels within a 320 kilometer radius of the proposed antenna location. Under the proposed rules, parties wishing to use a new or different location could apply for it without the need for rule making. Action on such applications would be taken at the staff level. Although allotment tables were an efficient way of meeting various goals during the initial establishment of the air-ground service, the benefits have diminished as the service matured while the procedures remain relatively burdensome for the Public Mobile Services. The general aviation air-ground service was established in the 1960's and is now mature. We believe that the proposed rules would ensure that nationwide coverage is maintained, while allowing more flexibility for licensees to respond to local air-ground markets.

§ 22.817 Additional channel policies.

This proposed rule governs the processing of applications for additional ground station channels to provide 450 MHz air-ground service. It is similar to our policy for paging systems, in that we propose to assign only one channel in an area per application cycle (up to a maximum of six ground station channels for any one licensee in an area). This policy is intended to promote competition and to prevent warehousing. Also, similar to proposed rule § 22.539, this proposed rule contains provisions to ensure that the "one channel at a time" policy is followed. We propose that any mutually exclusive applications to provide 450 MHz air-ground service be processed on a "first come, first served" basis. Mutually exclusive applications filed on the same day would be included in a random selection process.

§ 22.819 AGRAS compatibility requirement.

We propose to update our rules to require the technical and operational compatibility specifications currently used by the vast majority of stations providing general aviation air-ground service in the 450 MHz frequency range. All stations would be required to comply with the technical and operational requirements contained in the document "Technical Reference, Air-ground Radiotelephone Automated Service (AGRAS), System Operation and Equipment Characteristics" dated April 12, 1985. As for any stations that may still be operating under the original technical standards, we propose to allow them to do so until January 1, 1994. We seek comment as to whether there are any stations still operating under the original standards.

§§ 22.857, et. seq.

These rules conform to the rules established in the proceeding Amendment of the Commission's Rules Relative to Allocation of the 849-851/894-896 MHz Bands, 6 FCC Rcd 4582 (1991).

§ 22.901 Cellular service.

We propose to consolidate in this rule the existing requirement that cellular licensees provide service to subscribers in good standing, and other rules related to service provided by cellular carriers. This proposed rule also includes special provisions for alternative cellular technologies and auxiliary service, contained currently in § 22.930. In this regard, we propose to eliminate the restriction limiting fixed service to Basic Exchange Telecommunications Radio systems (BETRS). Because of this limitation, carriers currently wishing to provide a fixed-incidental service with compatible equipment must request a waiver to permit such use. We routinely grant such waivers, and can not envision a circumstance under which we would deny such a waiver. Thus it appears that the restriction on incidental fixed services is unnecessary. Carriers desiring to provide an incidental fixed service must comply with state certification requirements, if any. See Liberalization of Technology and Auxiliary Service Offerings in Public (1990).

§ 22.905 Channels for cellular service.

We are proposing to eliminate the wireline carrier set-aside provisions of current § 22.902. These set-aside provisions for separate wireline and non-wireline channels applied only to initial authorizations for the MSAs, NECMAs and RSAs. Once both eligible carriers in these markets have been authorized, the purpose of the set-aside has been served and the maintenance of the set-aside rule is no longer justified. See James F. Rill,



60 RR 2d 583,592-94 (1986). This proposal is consistent with our action in Unserved Areas (First Report and Order), where we eliminated the set-aside in unserved cellular areas.

#### § 22.909 Cellular market areas.

We are proposing to delete the list of the top-30 cellular MSA markets from our rules. There is no reason why this information must be codified in our rules. To ensure that this information is available to the public, the MSD staff recently issued a Public Notice listing all of the cellular markets with the appropriate counties involved. See Public Notice, "Cellular MSA/-RSA Markets and Counties," Mimeo No. 21538 (January 24, 1992).

#### § 22.913 Effective radiated power limits.

We propose to eliminate the current provision of § 22.905, that exempts base transmitters from the height-power limitations if coordination with other licensees is carried out. In view of the Commission's decision in Liberalization Service Offerings in the Cellular Radio Service (Auxiliary Cellular Order), 3 FCC Rcd 7033 (1988), recon., 5 FCC Rcd 1138 (1990), increasing base station maximum power from 100 to 500 watts, we believe this exemption is no longer appropriate.

#### § 22.919 Electronic serial numbers.

This new rule is proposed to help reduce fraudulent use of cellular equipment caused by tampering with the Electronic Serial Numbers (ESN) that identify mobile equipment to cellular systems. According to one industry estimate, cellular carriers lost over \$100 million to this type of fraud in 1990. The Commission believes that reducing this type of fraud is in the public interest because such losses, if allowed to continue unabated, will eventually affect carriers' abilities to continue to provide affordable rates. The proposed rule establishes anti-fraud technical specifications for mobile equipment.

#### § 22.935 Evaluation of cellular applications.

We propose to revise current § 22.916 which delineates the hearing designations procedures for cellular applications. In particular, we propose to delete paragraphs (a)(1)-(a)(4), which are applicable only to the top-30 cellular markets. The remainder of those rules, paragraphs 22.916(b)(5)-(b)(9) will be utilized in the hearing procedures for cellular renewal challenges. See Amendment of Part 22 of the Commission's Rules

Relating to License Renewals in the Domestic Public Cellular Telecommunications Service (Report and Order), 7 FCC Rcd 719 (1992).

#### § 22.937 Demonstration of financial qualifications.

We propose to revise our financial requirement rules to eliminate the separate financial requirements currently applicable to the top-120 markets, markets beyond the top-120, and the rural service areas. Instead, we are replacing these rules with uniform financial requirements that model the rules recently adopted in Unserved Areas (First Report and Order), 6 FCC Rcd 6185 (1991). The proposed rules would apply to all applications for initial cellular systems. However, for those RSA markets with initial authorizations that are subject to further lotteries, we propose a rule providing that the rules in effect at the time the RSA applications were filed will govern the outstanding RSA proceedings. (See proposed § 22.959.)

#### § 22.941 System identification numbers.

We propose to modify the present procedure for changing cellular System Identification Number codes (SID codes). By way of background, in the early 1980's the Electronic Industries Association (EIA) requested the Commission to assign SID codes on initial cellular licenses. It is necessary that each system have a SID code that is unique throughout the country in order for mobile subscriber equipment to be able to tell whether it is in communication with the system to which it is a subscriber, or alternatively, whether it is considered to be a roamer. See Public Notice, "Common Carrier Public Services Information," Mimeo No. 404 (October 24, 1983). The MSD has been assigning SID codes as a license term since then. However, licensees frequently seek to change the initially assigned SID code in order to consolidate territory or to implement "home roaming" agreements. As no procedures have been formally developed for SID code changes, licensees seeking to change their SID codes currently write a letter to MSD requesting the change. The MSD then issues a modified authorization listing the changed SID code. The licensee must receive this modified authorization before using the new code. Under the new rule that we are proposing, system operators could change their SID code at will, and would be required only to notify the Commission by filing an FCC Form 489 that the SID code is changed. The new procedure would require a SID code change to be handled in the same way as any other minor modification. We realize that some parties have informally opposed the idea to notify the Commission of SID code changes on Form 489,



because it would entail paying a processing fee for a service that is currently provided free, and because they believe that it would increase the information collection burden. We disagree that the rule we propose would be more burdensome than the current procedures. However, we believe that it is not essential that the Commission be the organization to assign these codes. There are no public interest issues involved in the assignment of SID codes, and there is no particular reason that SID codes must be a term of cellular authorizations. It might be more efficient and less burdensome if a private national cellular industry organization were to assign these codes outside of the FCC licensing process. Therefore, in the alternative to our proposal, we also seek comment on this possibility.

§ 22.947 Five year fill-in period.

This proposed rule is intended to consolidate all current rules relating to the five year fill-in period for first-in-market cellular systems in the MSAs and RSAs; for example, the rule requiring the filing of a system information update. Also, it is proposed to codify existing practice with regard to "partitioned RSAs", which are RSAs where the first licensee has allowed one or more additional carriers to establish independently authorized cellular systems within the market during the five year fill-in period.

§ 22.949 Unserved area licensing phases, procedures and filing windows.

The purpose of this proposed rule section is to consolidate the rules governing the filing and processing of unserved area cellular applications. We note that, as of the time the MSD staff drafted this Notice of Proposed Rule Making, petitions for reconsideration are pending in CC Docket No. 90-6. While the proposals herein represent our thinking as to the organization of cellular rules, it should be understood that substantive issues currently under consideration in other proceedings (such as CC Docket No. 90-6) will be resolved based on the record of those proceedings, and any rules finally adopted in this proceeding will be conformed to any decisions reached in the other proceedings. Thus, this Notice is not intended to provide a "second bite at the apple" and it is not necessary or desired that parties refile comments from other concurrently pending proceedings.

§ 22.955 Canadian condition.

We propose to codify a provision of the most recent agreement between the United States and Canada

specifying that authorizations for cellular systems within 72 kilometers (45 miles) of the United States-Canada border using the same channel block as cellular systems in adjacent territories in Canada shall include a condition on the authorization requiring the licensee to coordinate transmitter installations with the licensees operating the Canadian cellular systems. This condition is intended to eliminate harmful interference and ensure equal use of the channel block by both countries.

§ 22.957 Mexican condition.

We also propose to codify a provision of the most recent agreement between the United States and Mexico that includes provisions similar to the Canadian condition noted above. In addition, the condition states that United States cellular system operators shall not contract with Mexican customers and that operation of mobile units in Mexico is not permitted without the permission of the Mexican government.

§ 22.959 Rules governing initial cellular systems.

Because we propose to eliminate many of the detailed rules governing the processing of initial cellular authorizations, we also propose to adopt a new rule providing that any remaining pending applications for initial cellular authorizations will continue to be processed in accordance with the rules that were in effect at the time the applications were filed.

**Proposed Revisions of FCC Forms 401, 489 and 490**

The proposed rewrite of Part 22 entails substantial changes to FCC Forms 401, 489 and 490. These changes have several purposes: 1) to conform to proposed changes in Part 22; 2) to prepare for future magnetic and electronic filing; 3) to simplify the forms; 4) to consolidate the purposes for which the forms are to be used. The newly designed forms are structured with modules that correspond to tables in future relational data bases. By receiving the necessary information in this format, the MSD staff will be able to enter the data more easily, and thus reduce the time needed to process applications while, at the same time, maintaining the integrity of the data bases. With respect to the changes to FCC Form 489, we point out that although Form 489 was initially designed to notify the Commission of the status of PMS facilities, over the years the form has become a "catch-all" for notifications and requests that do not require Public Notice. We intend that Form 489 be used for notifications and Form 401 be used for applications, amendments and other requests requiring a Commission action or response.

Note however, that the fee amounts for the various types of filings will not change as a result of a change in the required form. The certifications of some of the forms are strengthened to reflect a greater responsibility for the correctness of technical exhibits. A certification regarding denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 862a) is added. FCC Form 155 (Fee collection) is incorporated into each of the three forms, as required by the Office of Management and Budget. Finally, we note that Telocator and CTIA have requested the elimination of several information collection requirements in these forms, and we have tried to accommodate as many of these requests as possible.

#### **Proposed Changes to FCC Form 401**

##### **1. Combine Tables MOB-1A and MOB-1B in Item**

**9.** We propose that these tables be combined because they are redundant.

**2. Remove Item 22.** We propose to remove Item 22, which requires that applicants list the exhibits that are attached to the application, because we generally do not use this information. If a required exhibit is missing when an application is filed, the application is unacceptable for filing and/or defective regardless of whether Item 22 is completed to indicate it should have been attached.

**3. Place instructions section of Item 33 on the Instructions to FCC Form 401.** We propose that all instructions be combined into the main form instructions.

**4. Modifications to Item 33, Table MOB-2 Antennas, Radiation and Points of Communication.** We propose to remove 33i, Polarization, because this information is unnecessary; remove 33j(3), Emission Designators, except when using non-standard emission designators; and combine 33j(5-7), Transmitters continued, with Item 38, Table MOB-4, Location of Fixed Antennas Regularly Receiving Signals of the Station. In addition, we propose to remove 33e and 33j(4) because the information is no longer required by the proposed rules. We also propose to remove 33j(6) and (7) because the information can be calculated from other information provided on the form.

**5. Add option to Item 35, Antenna Structure Statement, to read "On building, not exceeding 6.1 meters (20 Feet)".** We propose that this information be included in Item 35 to aid the MSD staff in processing applications more efficiently.

##### **6. Eliminate Item 35(g), Aeronautical Hazards.**

This item is removed because the information requested is not necessary.

**7. Eliminate Item 36, Vertical Profile Sketch of Antenna Structure.** We propose to eliminate the space on the form for the antenna structure sketch because it is not needed for most antenna structures and when it is necessary, it can be presented on an otherwise blank sheet of paper as an exhibit.

**8. Modifications to Item 37, Table MOB-3, Height and Power Engineering Data.** In this item, we eliminate (b) Average Elevation Along Radial Above Mean Sea Level and (c) Height of Antenna Radiation Center Above Average Elevation of Radial because this information can be obtained from available databases and calculations; eliminate (e) Distance to Reliable Service Area Contour and (f) Average Terrain Elevation because this is calculated from other information provided in the form; eliminate (h), which is associated with (b), information which is no longer necessary; and eliminate (i) which asks whether an antenna is omnidirectional and mounted at the top of the antenna structure.

**9. Add to Item 27 request for current geographic coordinates and FCC location number.** This information will assist the MSD staff in accurately processing relocated antennas.

**10. Expand the options for indicating the nature of the application or amendment.** The options are grouped by radio service and by whether the filing would be classified as major or minor. This will help the MSD staff process the filing more expeditiously.

#### **Proposed Changes to FCC Form 489**

**1. Remove Item 7b to Form 401.** Item 7b is for applicants requesting an extension of time to complete construction of their facilities. In view of our intent that Form 489 be used for notification purposes and that Form 401 be used for request purposes, we moved this to Form 401.

**2. Remove Item 7c.** Under the current rules, item 7c must be checked if the application is being submitted within 30 days after expiration of the authorization and reinstatement is requested. This information would no longer be relevant if we adopt our proposal to eliminate the rule allowing reinstatement.

**3. Add an option for partial completion of construction.** We propose to add an option to Item 6 allowing applicants to notify the Commission that only part of the facilities have been constructed. This information will assist the MSD staff in processing applications more efficiently.

**4. Remove Items 9, 10 and 11.** These items concern extensions of time to complete construction (items 9 and 10) and requests for reinstatements (item 11), both of which we propose to remove from Form 489. As proposed, requests for extensions of time will be filed on Form 401. As noted above, we are proposing to delete the rules allowing reinstatements.

**5. Remove Items 13, 14 and 16 to Form 401, Schedule B.** Items 13, 14 and 16 concern requests for modifications of facilities. Schedule B will continue to be attached to Form 489 when required.

**6. Remove Items 12 and 17.** Item 12 questions whether the representations contained in the granted application are still true and correct. Item 17 questions whether there has been any changes to the information in the application for authorization covering ownership, citizenship, station control, business connection and monopoly practices. If any of this information has changed, the applicant would reflect these changes on Forms 401 and 490.

**7. Remove Items 18 and 19.** Item 18 questions whether the application is for modification of license. Item 19 questions whether the applicant has been denied state certification for the facilities proposed in the application. Affirmative responses to both items require that exhibits be submitted. However, the information required by these exhibits would already be on file in the applicant's Form 401. Therefore, we propose to delete these items from Form 489.

#### **Proposed Changes to FCC Form 490**

**All requirements for the submission of exhibits are moved to the instructions.** The instructions to the form will specify what, if any, exhibits should be submitted.

#### **APPENDIX B**

#### **Proposed Rules**

#### **PART 1 - PRACTICE AND PROCEDURE**

1. The authority citation for Part 1 continues to read as follows:

Authority: Sections 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 1.420 is amended (to remove all references to the air-ground table of allotments - specific amendatory language to be provided at final rule publication).

3. In the first sentence of the introductory text of Section 1.742, the phrase "Except as specified in § 22.6" is revised to read "Except as specified in Part 22".

4. Section 1.821 is revised to read as follows:

#### **§ 1.821 Scope.**

The provisions of §§ 1.822, 1.823, 1.824 and 1.825 apply as indicated to those applications for permits, licenses or authorizations in the Public Mobile Services, Multichannel Multipoint Distribution Service and Digital Electronic Message Service for which action may be taken by the Chief, Common Carrier Bureau pursuant to delegated authority.

5. Section 1.823 is amended by revising the headnote and paragraph (b) to read as follows:

#### **§ 1.823 Random selection procedures for the Public Mobile services.**

\*\*\*\*\*

(b) \*\*\*

(1) Public Mobile Services other than the Cellular Radiotelephone Service. Petitions to Deny and other pleadings may be filed against applications but are not reviewed prior to the random selection process. Petitions filed against tentative selectee applications are reviewed after the tentative selectee is announced.

(2) Cellular Radiotelephone Service, except unserved areas. \*\*\*

(3) Cellular Radiotelephone Service, unserved areas. \*\*\*

\*\*\*\*\*

6. Section 1.1105 is amended (to conform terminology in the fee schedule - specific amendatory language to be provided at final rule publication).

7. Part 22 is revised to read as follows:

## PART 22 - PUBLIC MOBILE SERVICES

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- 22.3 Authorization required.
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## ALPHABETICAL INDEX-PART 22

AUTHORITY: 47 U.S.C. 154, 303, unless otherwise noted.

## Subpart A - Scope and Authority

## § 22.1 Basis and purpose.

This section contains a concise general statement of the basis and purpose of the rules in this part, pursuant to 5 U.S.C. 553(c).

(a) Basis. These rules are issued pursuant to the Communications Act of 1934, as amended, 47 U.S.C. 151 et. seq.

(b) Purpose. The purpose of these rules is to establish the requirements and conditions under which domestic common carrier radio stations may be licensed and used in the Public Mobile Services.

## § 22.3 Authorization required.

Stations in the Public Mobile Services must be used and operated only in accordance with the rules in this part and with a valid authorization granted by the Commission under the provisions of this part.

(a) The holding of an authorization does not create any rights beyond the terms, conditions and period specified in the authorization. Authorizations may be granted upon proper application, provided that the Commission finds that the applicant is qualified in regard to citizenship, character, financial, technical and other criteria, and that the public interest, convenience and necessity will be served. See 47 U.S.C. 301, 308, and 309.

(b) Authority for subscribers to operate mobile or fixed stations in the Public Mobile Services, except for certain stations in the Rural Radiotelephone Service and the Air-ground Radiotelephone Service, is included in the authorization held by the common carrier providing service to them. Subscribers are not required to apply for, and the Commission does not accept applications from subscribers for, individual mobile or fixed station authorizations in the Public Mobile Services, except as follows:

(1) Individual authorizations are required to operate general aviation airborne mobile stations in the Air-Ground Radiotelephone Service. See § 22.821.

(2) Individual authorizations are required to operate rural subscriber stations in the Rural Radiotelephone Service, except as

provided in § 22.703.

## § 22.5 Citizenship.

The rules in this section implement § 310 of the Communications Act of 1934, as amended (47 U.S.C. 310), in regard to the citizenship of licensees in the Public Mobile Services.

(a) Foreign governments. The Commission will not grant an authorization in the Public Mobile Services to any foreign government or any representative thereof.

(b) Alien ownership or control. The Commission will not grant an authorization in the Public Mobile Services to:

(1) any alien or the representative of any alien;

(2) any corporation organized under the laws of any foreign government;

(3) any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country;

(4) any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

## § 22.7 General eligibility.

Except as otherwise provided in this part, existing and proposed common carriers are eligible to apply for authorizations in the Public Mobile Services. Applications are granted only if the applicant is legally, financially, technically and otherwise qualified to render the proposed service, there are sufficient channel assignments available to enable the applicant to render a satisfactory service, and the public interest, convenience and necessity would be served by a grant thereof.

## § 22.99 Definitions.

Terms used in this part have the following meanings:

Air-Ground Radiotelephone Service. A radio service in which common carriers are authorized to offer and provide radiotelephone service for hire to subscribers in aircraft.

Airborne station. A mobile station in the Air-ground Radiotelephone Service authorized for use on aircraft in flight.

Antenna structure. A structure comprising an antenna, the tower or other structure that exists solely to support antennas, and any surmounting appurtenances (attachments such as beacons or lightning rods).

Antenna. A device that converts radio frequency electrical energy to radiated electromagnetic energy and vice versa; in a transmitting station, the device from which radio waves are emitted.

Archival quality microfiche. A silver halide master microfiche or a copy made on silver halide film.

Assignment of authorization. A transfer of a Public Mobile Services authorization from one party to another, voluntarily or involuntarily, directly or indirectly, or by transfer of control of the licensee.

Authorization. A written instrument issued by the Commission conveying authority to operate, for a specified term, a station in the Public Mobile Services.

Authorized bandwidth. The spectral width of that portion of the electromagnetic spectrum within which the emission power of the authorized transmitter(s) must be contained, in accordance with the rules in this part. An authorized bandwidth comprises one channel bandwidth or the bandwidths of two or more contiguous channels.

Auxiliary test transmitter. A fixed transmitter used to test Public Mobile systems.

Base transmitter. A stationary transmitter that provides service to mobile stations.

Blanketing interference. Disturbance in consumer receivers located within the near vicinity of a transmitter caused by currents directly induced into the consumer receiver's circuitry by the relatively high field strength of the transmitter.

Cardinal radials. Eight imaginary straight lines extending radially on the ground from an antenna location in the following azimuths with respect to true North: 0°, 45°, 90°, 135°, 180°, 225°, 270°, 315°.

Carrier frequency. The frequency of the unmodulated electrical wave at the output of an AM or FM transmitter.

Cell. The service area of an individual transmitter location in a cellular system.

Cellular Radiotelephone Service. A radio service in which common carriers are authorized to offer and provide cellular service for hire to the general public. This service was formerly titled Domestic Public Cellular Radio Telecommunications Service.

Cellular repeater. In the Cellular Radiotelephone Service, a stationary transmitter or device that automatically re-radiates the transmissions of base transmitters at a particular cell site and mobile stations communicating with those base transmitters, with or without channel translation.

Cellular service. Radio telecommunication services provided using a cellular system.

Cellular system. An automated high-capacity system of one or more multichannel base stations designed to provide radio telecommunication services to mobile stations over a wide area in a spectrally efficient manner. Cellular systems employ techniques such as low transmitting power and automatic hand-off between base stations of communications in progress to enable channels to be reused at relatively short distances. Cellular systems may also employ digital techniques such as voice encoding and decoding, data compression, error correction, and time or code division multiple access in order to increase system capacity.

Center frequency. The frequency of the middle of the bandwidth of a channel.

Central office transmitter. A fixed transmitter in the Rural Radiotelephone Service that provides service to rural subscriber stations.

Channel bandwidth. The spectral width of a channel, as specified in this part, within which 99% of the emission power must be contained.

Channel block. In the Cellular Radiotelephone Service and the Air-ground Radiotelephone Service, a group of channels assigned together.

Channel. The portion of the electromagnetic spectrum assigned by the Commission for one emission. However, in certain circumstances, more than one emission may be transmitted on a channel. See, for example, § 22.161 and § 22.757, *et seq.*

Communications channel. In the Cellular Radiotelephone and Air-ground Radiotelephone Services, a channel used to carry subscriber communications.

Construction period. The period between the date of grant of an authorization and the date of required commencement of service.

Control channel. In the Cellular Radiotelephone and Air-ground Radiotelephone services, a channel used to transmit information necessary to establish or maintain communications. In the other Public Mobile Services, a channel that may be assigned to a control transmitter.

Control point. A location where the operation of a public mobile station is supervised and controlled by the licensee of that station.

Control transmitter. A fixed transmitter in the Public Mobile Services that transmits control signals to one or more base or fixed stations for the purpose of controlling the operation of the base or fixed stations, and/or transmits subscriber communications to one or more base or fixed stations that retransmit them to subscribers.

Dead spots. Small areas within a protected service area where the field strength is lower than the minimum level for reliable service. Service within dead spots is presumed.

Effective radiated power (ERP). The effective radiated power of a transmitter (with antenna, transmission line, duplexers etc.) is the power at the input terminals of a reference half-wave dipole antenna that would produce the same maximum field intensity.

Emission designator. An internationally accepted symbol for describing an emission in terms of its bandwidth and the characteristics of its modulation, if any.

Emission mask. The design limits imposed, as a condition for type acceptance, on the mean power of emissions as a function of frequency both within the authorized bandwidth and in the adjacent spectrum.

Emission. The electromagnetic energy radiated from an antenna.

Equivalent isotropically radiated power (EIRP). The equivalent isotropically radiated power of a transmitter (with antenna, transmission line, duplexers etc.) is the power at the input terminals of a

reference isotropic radiator that would produce the same maximum field intensity.

**Facsimile service.** Transmission of still images from one place to another by means of radio.

**Fill-in transmitters.** In the Cellular Radiotelephone Service, transmitters added to the first cellular system authorized on a channel block in a cellular market during the five year fill-in period in order to expand the coverage of the system within the market. In the Paging and Radiotelephone Service, transmitters added to a station, in the same area and transmitting on the same channel as previously authorized transmitters, for the purpose of improving reception in dead spots.

**Five year fill-in period.** A five year period during which the licensee of the first cellular system authorized on each channel block in each cellular market may expand the system within that market. See § 22.947.

**Fixed transmitter.** A stationary transmitter that communicates with other stationary transmitters.

**Frequency.** The number of cycles occurring per second of an electrical or electromagnetic wave; a number representing a specific point in the electromagnetic spectrum.

**Ground station.** In the Air-ground Radiotelephone Service, a stationary transmitter that provides service to airborne mobile stations.

**Height above average terrain (HAAT).** The height of an antenna above the average elevation of the surrounding area.

**In-building radiation systems.** Supplementary systems comprising low power transmitters, receivers, indoor antennas and/or leaky coaxial cable radiators, designed to improve service reliability inside buildings or structures located within the service areas of stations in the Public Mobile Services.

**Initial applications.** Applications for authority to operate the first cellular system on a channel block in a cellular market.

**Interfering contour.** The locus of points surrounding a transmitter where the predicted median field strength of the signal from that transmitter is the maximum field strength that is not considered to cause interference at the service contour of another transmitter.

**Interoffice transmitter.** A fixed transmitter in the Rural Radiotelephone Service that communicates with other interoffice transmitters for the purpose of interconnecting rural central offices.

**Meteor burst propagation mode.** A long distance VHF radio communication path occurring as a result of the refraction of electromagnetic waves by ionized meteor trails.

**Mobile station.** One or more transmitters that are capable of operation while in motion.

**Necessary bandwidth.** The calculated spectral width of an emission. Calculations are made using formulas set forth in Part 2 of this chapter. The bandwidth so calculated is considered to be the minimum necessary to convey information at the desired rate with the desired accuracy.

**Occupied bandwidth.** The measured spectral width of an emission. The measurement determines occupied bandwidth as the difference between upper and lower frequencies where 0.5% of the emission power is above the upper frequency and 0.5% of the emission power is below the lower frequency.

**Offshore central transmitter.** A fixed transmitter in the Offshore Radiotelephone Service that provides service to offshore subscriber stations.

**Offshore Radiotelephone Service.** A radio service in which common carriers are authorized to offer and provide radio telecommunication services for hire to subscribers on structures in the offshore coastal waters of the Gulf of Mexico.

**Offshore subscriber station.** One or more fixed and/or mobile transmitters in the Offshore Radiotelephone Service that receive service from offshore central transmitters.

**Pager.** A radio receiver that can be carried by a person and is designed to give an aural, visual or tactile indication when activated by the reception of a radio signal containing its specific code. It may also reproduce sounds and/or display messages, if these were also transmitted. It may also transmit a radio signal acknowledging that a message has been received.

**Paging and Radiotelephone Service.** A radio service in which common carriers are authorized to offer and provide paging and radiotelephone service for hire to the general public. This service was formerly titled Public Land Mobile Service.

**Paging service.** Transmission of brief coded radio signals for the purpose of activating specific pagers; such transmissions may include brief messages and/or sounds.

**Partitioned RSA.** A Rural Service Area with two or more authorized cellular systems on the same channel block during the five year fill-in period, as a result of contract(s) between the licensee of the first cellular system and the licensee(s) of the subsequent systems. See § 22.947(b).

**Public Mobile Services.** Radio services in which common carriers are authorized to offer and provide mobile and related fixed radio telecommunication services for hire to the public.

**Radio common carrier.** A telecommunications common carrier that is not also engaged in the business of providing landline local exchange telephone service.

**Radio telecommunication services.** Communication services provided by the use of radio, including radiotelephone, radiotelegraph, and facsimile service.

**Radiotelegraph service.** Transmission of messages from one place to another by means of radio.

**Radiotelephone service.** Transmission of sound from one place to another by means of radio.

**Repeater.** A fixed transmitter that retransmits the signals of other fixed stations.

**Roamer.** A mobile station receiving service from a station or system in the Public Mobile Services other than one to which it is a subscriber.



**Rural Radiotelephone Service.** A radio service in which common carriers are authorized to offer and provide radio telecommunication services for hire to subscribers in areas where it is not feasible to provide communication services by wire or other means.

**Rural subscriber station.** One or more fixed transmitters in the Rural Radiotelephone Service that receive service from central office transmitters.

**Service area.** The geographic area considered by the Commission to be reliably served by a station in the Public Mobile Services.

**Service contour.** The locus of points surrounding a transmitter where the predicted median field strength of the signal from that transmitter is the minimum field strength that is considered sufficient to provide reliable service to mobile stations.

**Telecommunications common carrier.** An individual, partnership, association, joint-stock company, trust or corporation engaged in rendering telecommunications services to the general public for hire.

**Temporary fixed station.** One or more fixed transmitters that normally do not remain at any particular location for longer than 6 months.

**Transfer of control.** A transfer of the controlling interest in a Public Mobile Services licensee from one party to another.

**Wireline common carrier.** A telecommunications common carrier that is also engaged in the business of providing landline local exchange telephone service.

## Subpart B - Application Requirements and Procedures

### § 22.101 Station files.

Applications, notifications, correspondence and other material, and copies of authorizations, comprising technical, legal, and administrative data relating to each station in the Public Mobile Services are maintained in individual station files. These files constitute the official records for these stations and supersede any other records, data bases or lists from the Commission or other sources. Station files are available for public inspection in the Mobile Services Division Public Reference Room, 1919 M Street N.W., Washington, DC.

### § 22.103 Representations.

Parties must make full and continuing disclosure as required by § 1.65 of this chapter. Parties must not make misrepresentations. The signing of an application or notification for new or additional facilities in the Public Mobile Services constitutes a representation that the applicant intends to use such facilities to provide service to the public in accordance with the rules in this part.

### § 22.105 Written applications, standard forms, microfiche, magnetic disks.

Except for authorizations granted under the emergency conditions set forth in § 308 of the Communications Act of 1934 (47 U.S.C. 308), the Commission may grant authorizations only upon written application received by it. A separate written application is required for each authorization. Applicants shall submit any documents, exhibits, or other written statements of fact that the

Commission may require in determining whether to grant, deny or dismiss an application.

(a) **Formal applications, amendments and notifications.** Except as provided in paragraph (b) of this section, applications, amendments and notifications must be filed using the standard forms listed in paragraph (c) of this section.

(b) **Informal applications, amendments and notifications.** Applications, amendments and notifications in letter or document form may be accepted for filing, if none of the standard forms listed in this section are prescribed for or clearly applicable for the intended purpose. Such informal applications, amendments and notifications must be submitted in duplicate, with a caption clearly stating the name of the filer, nature of the filing, the Public Mobile service involved, the call sign of the relevant existing station, if any, and the file number of the relevant pending application, if any, and must contain all necessary technical data and exhibits.

(c) **Standard forms.** Standard forms may be obtained in small quantities from the FCC. Standard forms may be reproduced and the copies used. Computer-generated standard forms may also be used after approval by the Commission staff. Standard forms used for applications, amendments, notifications and reports in the Public Mobile Services are listed in Table B-1.

(d) **Microfiche required.** All filings and submissions related to stations in the Public Mobile Services, such as applications (including exhibits and attachments), notifications, amendments, reports, correspondence and pleadings must be submitted in microfiche form, except as provided in paragraphs (d)(1) and (g) of this section.

(1) Emergency filings, such as requests for special temporary authority, need not be submitted in microfiche form. Filings and submissions (other than standard application forms) that are no longer than three pages need not be submitted in microfiche form. Standard application forms must be submitted in microfiche form, even if they comprise three pages or less.

(2) Three microfiche copies of each filing or submission must be submitted. Each microfiche copy must be a complete copy of the signed paper original. Each microfiche must be a 148mm by 105mm negative (clear transparent characters appearing on a black background) at 24× or 27× reduction. At least one of the microfiche copies must be a silver halide camera master or a copy made on silver halide film such as Kodak Direct Duplicatory Film. Microfiche must be placed in paper microfiche envelopes and submitted in a 5" by 7½" envelope. Applicants must leave Row "A" (the first row for page images) of the first microfiche blank for Commission use.

(3) The following information must be printed on the mailing envelope, the microfiche envelope, and the title area at the top of the microfiche:

(i) for applications other than initial applications in the Cellular Radiotelephone Service, notifications, amendments, reports, correspondence, and pleadings - the name of the applicant, the city and state of the application and the call sign of the station, if the application refers to an existing station.

(ii) for initial applications in the Cellular Radiotelephone Service - the name of the applicant, the market name, the market number, and the channel block.